

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.)	
425 Third Street, SW, Suite 800)	
Washington, D.C. 20024,)	
)	
Plaintiff,)	Civil Action No. 12-884
)	
v.)	
)	
U.S. DEPARTMENT OF JUSTICE,)	
950 Pennsylvania Avenue, NW)	
Washington, DC 20530-0001,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Justice to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 425 Third Street, SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of its public interest mission, Plaintiff

regularly requests access to the public records of federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the U.S. Government and is headquartered at 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On March 30, 2012, Plaintiff submitted a FOIA request to the Department of Justice, FOIA/PA Mail Referral Unit, by certified mail, seeking access to:

All records of communications between the Department of Justice and the American Civil Liberties Union (ACLU) concerning, regarding, or relating to Pennsylvania House Bill 934, commonly referred to as Pennsylvania's Voter ID law. The timeframe for this request is May 1, 2012 to March 30, 2012.

6. According to USPS records, Plaintiff's FOIA request was received by the Department of Justice, FOIA/PA Mail Referral Unit on April 5, 2012.

7. The Department of Justice, FOIA/PA Mail Referral Unit subsequently acknowledged receipt of Plaintiff's request, but did not state whether a determination to comply with the request had been made. Nor did the Department of Justice's acknowledgement letter notify Plaintiff of any such determination, the reasons therefor, or the right to appeal any adverse determination.

8. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), the Department of Justice was required to determine whether to comply with Plaintiff's request within twenty (20) working days after its receipt of the request and to notify Plaintiff immediately of its determination, the reasons therefor, and the right to appeal any adverse determination. Because Plaintiff sent its request to the component of the Department of Justice designated by Defendant to receive FOIA requests,

pursuant to 5 U.S.C. § 552(a)(6)(A) this twenty (20) working day time period did not commence until ten (10) working days after the Department of Justice, FOIA/PA Mail Referral Unit's receipt of the request on April 5, 2012. Accordingly, the Department of Justice's determination was due by May 17, 2012 at the latest.

9. As of the date of this Complaint, the Department of Justice has failed to: (i) determine whether to comply with Plaintiff's request; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

10. Because the Department of Justice failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its request, pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA, 5 U.S.C. § 552)

11. Plaintiff realleges paragraphs 1 through 10 as if fully stated herein.

13. Defendant is unlawfully withholding public records requested by Plaintiff pursuant to 5 U.S.C. § 552.

14. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of the requested public records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully request that the Court: (1) order Defendant to conduct a search for any and all records responsive to Plaintiff's FOIA request and demonstrate that they employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all

non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: June 1, 2012

Respectfully submitted,

/s/ Paul J. Orfanedes
Paul J. Orfanedes
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